

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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UNITED STATES OF AMERICA,

-v-

EDWARD SHIN,

Defendants. :

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GREGORY H. WOODS, United States District Judge:

1:19-cr-552-GHW

ORDER

On May 13, 2021, Defendant Edward Shin filed a motion to compel the production of documents by Foxwoods Resort Casino. Dkt. No. 86. The motion is denied without prejudice. An application to compel a response to the subpoena should be pursued through a proposed order to show cause—a mechanism that alerts the respondent to the application before the Court and provides it an opportunity to be heard. The Court will entertain a proposed order to show cause why compliance with this subpoena should not be compelled. The application must be supported by a memorandum of law and supporting affidavits, and should attach a proposed order to show cause, providing for the service of the order on the respondent, and an opportunity for it to oppose the application prior to the proposed hearing date.


The Court observes that the affidavit presented in connection with the motion states that in “November 2020, the Court authorized the issuance of a subpoena duces tecum, pursuant to Federal Rule of Criminal Procedure 17(c), to Foxwoods Resort Casino seeking records to be provided prior to the trial date.” Dkt. No. 86-1. That statement is incorrect in part. First, the Court authorized the issuance of this subpoena on October 30, 2020. Second, and more substantially, the Court did not authorize the delivery of the materials to the defendant at the place or on the date indicated by the defendant in the attached subpoena. The subpoena presented to the Court did not

include that information. As counsel knows, Rule 17 subpoenas are trial subpoenas and “Rule 17(c) was not intended to provide an additional means of discovery.” *Bowman Dairy Co. v. United States*, 341 U.S. 214, 220 (1951). The return place and date for this subpoena was not previously approved by the Court. The memorandum in support of an order to show cause should address why this subpoena is properly issued given its return date and location. The memorandum of law should also address the Court’s jurisdiction to enforce this subpoena, given the location of the respondent and the fact that the subpoena does not require “a witness to attend a hearing or trial” as provided in Rule 17(e).

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 86.

SO ORDERED.

Dated: May 26, 2021
New York, New York



GREGORY H. WOODS
United States District Judge